

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

DOUGLAS STEPNEY,

Petitioner,

vs.

UNITED STATES OF AMERICA,

Respondent.

No. C 07-01479 MHP  
[CR 01-0344 MHP]

**ORDER DENYING  
CERTIFICATE OF  
APPEALABILITY**

Petitioner has appealed this court's order denying his petition for a writ of habeas corpus filed pursuant to 28 U.S.C. section 2255 and requires a certificate of appealability from this court. The court is familiar with this action and the record herein as well as the record related to his habeas petition. The grounds for relief asserted in his petition are specious and not worthy of the certificate.

Petitioner entered a plea of guilty pursuant to a plea agreement. As this court's order on his 2255 petition sets forth, petitioner fully admitted his leadership role justifying the enhancement. He acknowledged it in his plea agreement and at the colloquy in entering his plea. It was clearly a factor in his negotiated plea. And, he negotiated for the particular sentence he received. This latter fact renders the arguments he makes in his petition frivolous, for if the court sentenced him to a lower sentence, he would have lost the benefit of his bargain.

For the reasons stated above and in the court's order denying his petition, petitioner's arguments on appeal are specious and a certificate of appealability is DENIED.

IT IS SO ORDERED.

Date: July 15, 2008



MARILYN HALL PATEL  
United States District Court  
Northern District of California